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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,618	06/03/2002	Elchanan Bruckheimer	1934/13	3477

7590 02/06/2008
Mark Friedman
Bill Polkinghorn
Discovery Dispatch
9003 Florin Way
Upper Marlboro, MD 20772

EXAMINER

DAWSON, GLENN K

ART UNIT	PAPER NUMBER
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3731

MAIL DATE	DELIVERY MODE
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02/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10069618	6/3/02	BRUCKHEIMER, ELCHANAN	1934/13

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9003 Florin Way
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EXAMINER

Glenn K. Dawson

ART UNIT	PAPER
3731	20080201


DATE MAILED:

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Commissioner for Patents

Please see the attached Notice of Panel Decision from Pre-Appeal Brief Review. the rim 21,13 is biased into a circular shape and is definitely at least partially, if not completely responsible for causing the implant to attain a configuration substantially perpendicular to the feed direction. the rim clearly has the capacity to expand and contact tissue surrounding it and thus certainly has the capacity to hold the implant in place relative to tissue. The rim has joints allowing folding for compact delivery and due to the small size of the catheter lumen would include at least some portions which extend substantially parallel to the feed direction as extension need not only be along one axis. any elongated three-dimensional object extends in directions other than only along it's longitudinal axis.

/Glenn K Dawson/
Primary Examiner, Art Unit 3731

Application Number 	Application/Control No. 10/069,618 Glenn Dawson	Applicant(s)/Patent under Reexamination BRUCKHEIMER, ELCHANAN Art Unit 3731
Document Code - AP.PRE.DEC		

Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed 11/8/2007.

1. ☐ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- ☐ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- ☐ The request does not include reasons why a review is appropriate.
- ☐ A proposed amendment is included with the Pre-Appeal Brief request.
- ☐ Other:

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. ☒ **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

☒ The panel has determined the status of the claim(s) is as follows:

Claim(s) allowed: _____

Claim(s) objected to: 28.

Claim(s) rejected: 15-19.

Claim(s) withdrawn from consideration: 20-27.

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. ☐ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) Tom Hughes

(2) Glenn Dawson

GLENN K. DAWSON
PRIMARY EXAMINER

(3) Todd Marahan

(4) _____